

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

ENRIQUE QUIROZ, Deceased, through §  
JOSEPHINE SALAZAR, individually, and as §  
next friend of J.R.S., E.F.Q, and E.Q., Minors; §  
MERCEDES QUIROZ, JASMINE QUIROZ, §  
ANDREW RAMIREZ and CHRISTINA §  
ESPINOZA as next friend of H.E., a Minor, §  
*Plaintiffs,* §

v. §

No. 1:21-cv-00443-RP

OFFICERS EDUARDO PINEDA, §  
SPENCER HANNA, ZANE DOWDELL, §  
LUCAS PARKER, WILLIAM LEGGIO, and §  
CITY OF AUSTIN, TEXAS, §  
*Defendants.* §

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**DEFENDANTS' UNOPPOSED MOTION TO STAY THE CASE  
PENDING THE RESOLUTION OF CRIMINAL PROCEEDINGS OF  
DEFENDANTS EDUARDO PINEDA AND SPENCER HANNA**

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TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Officer Eduardo Pineda and Officer Spencer Hanna, Defendants in the above-entitled and numbered cause and file this unopposed motion to stay the case pending the resolution of the ongoing criminal cases against Defendants Eduardo Pineda and Spencer Hanna, and in support thereof would respectfully show this Court as follows:

**I. FACTUAL BACKGROUND**

1. Based on an amicable conference and agreement between counsel, Magistrate Judge Lane granted Defendants Pineda and Hanna's Motion to Stay Discovery on January 12, 2022.<sup>1</sup> Magistrate Judge Lane's Order stayed discovery in this matter for 60 (sixty) days, pursuant the

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<sup>1</sup> Order Granting Motion to Stay Discovery, Dkt. # 28.

parties' agreement as outlined in the Joint Notice. This 60-day discovery stay expired on March 14, 2022. The agreement and order contemplated the right to file an additional motion to stay discovery after the 60-day stay if the grand jury proceedings and/or any corresponding criminal prosecutions had not concluded.

2. On August 16, 2022, the parties filed a Joint Motion for Continuance and to Amend the Scheduling Order (Dkt. # 42) ("Joint Motion"), because the Travis County Grand Jury had still yet to convene regarding the potential pending charges against Defendants Pineda and Hanna pertaining to the incident that forms the basis of this case. This Court granted the parties' Joint Motion and entered the Second Amended Scheduling Order on August 19, 2022 (Dkt. # 43), setting the jury trial for November 13, 2023.

3. Travis County District Attorney Jose Garza issued his latest press release outlining the current pending Civil Rights Unit Case Summaries on September 30, 2022.<sup>2</sup> According to this latest press release, the Travis County Grand Jury has still yet to convene regarding the potential charges against Defendant Officers Pineda and Hanna stating, "[t]he case is being jointly investigated by the Austin Police Department's Special Investigations Unit and the Travis County District Attorney Office's Civil Rights Unit."<sup>3</sup>

4. If this case proceeds as currently scheduled, full and open discovery will be frustrated because Defendants Pineda and Hanna will likely be advised to assert their Fifth Amendment rights not to testify in response to any eligible discovery request issued to them in this civil lawsuit

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<sup>2</sup> See **Ex. 1**, Travis County DA Civil Rights Unit Case Summaries – Sept. 30, 2022, pg. 8 [https://www.traviscountytexas.gov/images/district\\_attorney/docs/Press\\_Releases/2022/Case\\_Summaries\\_Sept\\_30\\_2022.pdf](https://www.traviscountytexas.gov/images/district_attorney/docs/Press_Releases/2022/Case_Summaries_Sept_30_2022.pdf).

<sup>3</sup> *Id.*

until their pending criminal jeopardy has been resolved. The parties collectively would prefer that this case be litigated on the merits after full and open discovery has taken place.

5. It is unlikely the parties will be able to proceed with their desired full and open discovery in time to meet important pending deadlines, including Plaintiffs' expert deadline on December 14, 2022.

## **II. RELIEF REQUESTED**

6. Although some discovery has occurred, any further discovery will certainly involve the Defendants Pineda and Hanna, and Plaintiff does not want discovery to be frustrated by their expected Fifth Amendment invocations, nor repeat discovery because Pineda and Hanna were deprived of the opportunity to cross-examine or otherwise participate in any given deposition.

7. Fragmented discovery causes undue burden and expense to the Plaintiffs as well as to the Defendants, and frustrates determining the correct proportionality of discovery and costs to all parties. The parties have thus shown good cause for the case be stayed pending the outcome of the potential criminal prosecutions, and this request for a stay is not merely for delay as shown by the facts set forth herein.

8. In the alternative, if a stay is not granted, the parties' request the Second Amended Scheduling Order (Dkt. # 43) be vacated pending the resolution of the grand jury proceedings and resulting criminal cases, if any.

9. Counsel for Defendants Pineda and Hanna have conferred with counsel for all parties, and all counsel have indicated that they are unopposed to and support the relief requested herein.

## **III. PRAYER FOR RELIEF**

10. WHEREFORE, PREMISES CONSIDERED, Defendants Eduardo Pineda and Spencer Hanna respectfully requests that this Court grant this unopposed motion to stay discovery pending

the resolution of the grand jury proceedings and any resulting criminal prosecutions that occur related to this incident. In the alternative, if the stay is denied, then Defendants request that the Second Amended Scheduling Order (Dkt. # 43) be vacated until the resolution of the grand jury proceedings and any resulting criminal prosecutions that occur related to this incident, and for all other relief to which they may be entitled.

Respectfully submitted,

**WRIGHT & GREENHILL, P.C.**

4700 Mueller Blvd., Suite 200

Austin, Texas 78723

(512) 476-4600

(512) 476-5382 – Fax

By:           /s/ Blair J. Leake          

Blair J. Leake

State Bar No. 24081630

[bleake@w-g.com](mailto:bleake@w-g.com)

Stephen B. Barron

State Bar No. 24109619

[sbarron@w-g.com](mailto:sbarron@w-g.com)

**ATTORNEYS FOR DEFENDANTS**

EDUARDO PINEDA AND

**SPENCER HANNA**

## CERTIFICATE OF CONFERENCE

On November 15, Defendants' counsel conferred with all counsel via email and all counsel are unopposed to this motion.

/s/ Blair J. Leake

Blair J. Leake

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2nd day of December, 2022, a true and correct copy of the foregoing document was caused to be served upon all counsel of record via E-File/E-Service/E-Mail and/or U.S. First Class Mail in accordance with the Federal Rules of Civil Procedure as follows:

Bobby R. Taylor

[bobby@taylor-law.com](mailto:bobby@taylor-law.com)

**THE LAW OFFICE OF BOBBY R. TAYLOR**

1709 E. Martin L. King, Jr. Blvd.

Austin, Texas 78702

Monte L. Barton, Jr.

[monte.barton@austintexas.gov](mailto:monte.barton@austintexas.gov)

**City of Austin – Law Department**

P.O. Box 1546

Austin, Texas 78767-1546

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/s/ Blair J. Leake

Blair J. Leake